

## (1) IN THIS SECTION:

(A) GOODS ARE "FIXTURES" WHEN THEY BECOME SO RELATED TO PARTICULAR REAL ESTATE THAT AN INTEREST IN THEM ARISES UNDER REAL ESTATE LAW;

(B) A "FIXTURE FILING" IS THE FILING, IN THE OFFICE WHERE A MORTGAGE ON THE REAL ESTATE WOULD BE FILED OR RECORDED, OF A FINANCING STATEMENT COVERING GOODS THAT ARE OR ARE TO BECOME FIXTURES AND CONFORMING TO THE REQUIREMENTS OF SUBSECTION (5) OF § 9-402;

(C) A LEASE IS A "PURCHASE MONEY LEASE" UNLESS THE LESSEE HAS POSSESSION OR USE OF THE GOODS OR THE RIGHT TO POSSESSION OR USE OF THE GOODS BEFORE THE LEASE AGREEMENT IS ENFORCEABLE;

(D) A MORTGAGE IS A "CONSTRUCTION MORTGAGE" TO THE EXTENT IT SECURES AN OBLIGATION INCURRED FOR THE CONSTRUCTION OF AN IMPROVEMENT ON LAND INCLUDING THE ACQUISITION COST OF THE LAND, IF THE RECORDED WRITING SO INDICATES; AND

(E) "ENCUMBRANCE" INCLUDES REAL ESTATE MORTGAGES AND OTHER LIENS ON REAL ESTATE AND ALL OTHER RIGHTS IN REAL ESTATE THAT ARE NOT OWNERSHIP INTERESTS.

(2) UNDER THIS ARTICLE A LEASE MAY BE OF GOODS THAT ARE FIXTURES OR MAY CONTINUE IN GOODS THAT BECOME FIXTURES BUT NO LEASE EXISTS UNDER THIS ARTICLE OF ORDINARY BUILDING MATERIALS INCORPORATED INTO AN IMPROVEMENT ON LAND.

(3) THIS ARTICLE DOES NOT PREVENT CREATION OF A LEASE OF FIXTURES PURSUANT TO REAL ESTATE LAW.

(4) THE PERFECTED INTEREST OF A LESSOR OF FIXTURES HAS PRIORITY OVER A CONFLICTING INTEREST OF AN ENCUMBRANCER OR OWNER OF THE REAL ESTATE IF:

(A) THE LEASE IS A PURCHASE MONEY LEASE, THE CONFLICTING INTEREST OF THE ENCUMBRANCER OR OWNER ARISES BEFORE THE GOODS BECOME FIXTURES, THE INTEREST OF THE LESSOR IS PERFECTED BY A FIXTURE FILING BEFORE THE GOODS BECOME FIXTURES OR WITHIN 10 DAYS THEREAFTER, AND THE LESSEE HAS AN INTEREST OF RECORD IN THE REAL ESTATE OR IS IN POSSESSION OF THE REAL ESTATE; OR

(B) THE INTEREST OF THE LESSOR IS PERFECTED BY A FIXTURE FILING BEFORE THE INTEREST OF THE ENCUMBRANCER OR OWNER IS OF RECORD, THE LESSOR'S INTEREST HAS PRIORITY OVER ANY CONFLICTING INTEREST OF A PREDECESSOR IN TITLE OF THE ENCUMBRANCER OR OWNER, AND THE LESSEE HAS AN INTEREST OF RECORD IN THE REAL ESTATE OR IS IN POSSESSION OF THE REAL ESTATE.

(5) THE INTEREST OF A LESSOR OF FIXTURES, WHETHER OR NOT ENCUMBRANCER OR OWNER OF THE REAL ESTATE IF: